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IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE ELEVENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE D.S.R.VARMA

WRIT PETITION NO : 9131 of 2004

Between:

M/s Sree Rayalaseema Alkalkies & Allied Chemicals Ltd. having its
Regd.Office at TGL Buildings,
TGL Road, Adoni, Kurnool District, rep.by its Chairman and Managing Director
Sri T.G.Venkatesh.

..... PETITIONER

AND

- 1 Transmission Corporation of A.P.Ltd (A.P.Transco) rep.by its Chief Managing Director,
Vidyut Soudha, Khairatabad, Hyderabad.
- 2 The Chairman and Managing Director, Central Power Distribution Company of A.P.Ltd (A.P.Transco)
Singareni Bhavan, Red Hills, Hyderabad.
- 3 The Superintending Engineer, Operation Circle, Central Power Distribution Company of A.P.Limited (A.P.Transco), Kurnool, Kurnool District.
- 4 The Divisional Engineer, Operation Circle, Central Power Distribution Company of A.P.Ltd., (A.P.Transco), Kurnool, Kurnool District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ or order of direction more particularly one in the nature of Writ of Mandamus declaring the letter No.SE/O/KNL/SAO/REv/HT/JAO/D.No.237/2004 dated 12-05-2004 of the 3rd respondent requiring the petitioner to pay sum of Rs.1,58,09,460.50 ps. as highly illegal, arbitrary, unjust and contrary to the orders of this Hon'ble High Court in W.P.No.30391/1998 and consequently set aside the same

Counsel for the Petitioner: MR.D.V.NAGARJUNA BABU

Counsel for the Respondent Nos.1 to 4: MR.M.SREERAMULU REDDY

The Court made the following :

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ORAL ORDER:

Heard both sides and at their request, this Writ Petition is taken up for disposal at the stage of admission.

This Writ Petition is filed for issuance of a writ particularly one in the nature of Writ of Mandamus, declaring the letter No. SE/O/KNL/SAO/Rev/HT/JAO D.No. 237/2004, dated 12.5.2004, of the 3rd respondent, requiring the petitioner to pay a sum of Rs. 1,58,09.460.50, as highly illegal, arbitrary and contrary to the orders passed by this court in W.P.No. 30391/198 and consequently set aside the same.

This Writ Petition has a chequered history. The petitioner was originally availing HT supply with 20,000 KVA demand. For several reasons he got it reduced to 15,000 KVA and the reasons for such reduction are not worth mentioning for the purpose of disposal of this case. Again after some time he requested the respondents to restore 20,000 KVA demand after making some necessary repair works in the unit. When the said request was rejected orally, Writ Petition No. 5620 of 1989 was filed and an interim order was passed in WPMP No. 7420 of 1989 on 20.06.1989.

From the above, it is absolutely clear that the Board was directed to pass appropriate orders and until the Board passes the final orders on the representation of the petitioner, the petitioner was permitted to consume the power whatever that was being consumed as on 4.4.1998.

When the matter came up for final hearing, the Writ Petition was disposed of with the following directions:

“it is seen that along with the Writ Petition WPMP NO. 742 of 1989 was filed seeking an interim direction for increasing power quota from 15 MVA to 20 MVA. This court while admitting the writ petition by interim order dated 26.4.1989 in WPMP No. 7420 directed the respondents to increase the power quota from 15MVA to 20 MVA. That being so, the relief which the petitioner intends to seek has already been granted to him and therefore, no further orders necessary to be passed in

this writ Petition.

Accordingly, the Writ Petition is disposed of in terms of interim orders dated 26.4.1989. No costs.”

From the above final order, it is abundantly clear that since by virtue of interim orders, the quota from 15MVA to 20 MVA has already been granted to the petitioner and no further orders are required to be passed. Therefore, in view of those circumstances, the Writ Petition was disposed of. But, it should be remembered that the Writ Petition was disposed of, in terms of the interim orders dated 26.4.1989. It should be understood and construed as if the interim orders were translated into final orders, in view of the circumstances prevailing as on the date of disposal of the Writ Petition and in similar circumstances, similarly placed units were extended the benefit and whereas the petitioner was denied the same. Keeping that fact also in view, interim orders were passed. This fact can be understood with minimum application of mind.

While matters stood thus, again vide proceedings LR.No. SE(O) KNL/REV/JAO/ HT/D.No. 715/98 dated 21.8.1998, another impugned notice was issued to the petitioner and the same was challenged before this court again in Writ Petition No. 30391 of 1998, but the same was disposed of on 2.9.2002 with a direction to the petitioner to make a representation subject to the payment of an amount of Rs. 5,00,000/- within a period of eight weeks from the date of receipt of a copy of that order. On such deposit, the first respondent is directed to dispose of the representation made by the petitioner, within a period of three months thereafter, by affording an opportunity of hearing to the petitioner. Till such time, it was directed that the interim order passed by this court shall continue.

Condition relating to payment of the amount had been complied with. But, surprisingly, again the present impugned order dated 12.5.2004 had been passed.

Again, a bare perusal of the impugned order would show that only Writ Petition No. 30391 of 1998 was mentioned, and the figures of surcharge automatically followed.

There were absolutely no reasons for quoting those figures except mentioning of the Writ Petition No. 30391 of 1998.

This court is unable to understand the way in which the third respondent passed the impugned order. The impugned order demonstrates the naivety in the perspective capability of the third respondent and this is a deliberate violation of the orders of the court. Further more, at para 12 of the counter affidavit it was stated as under:

“It is submitted that though there was a mention in the interim orders dated 28.4.1989 appropriate direction will be issued as to whether the petitioner is liable to pay any excess amount for utilizing the power during the interregnum, there was no mention in the final orders by the High Court in this regard.”

In spite of the above observations made by this court in W.P.No. 5620 of 1989, a deliberate attempt has been made to interpret the order of this court in derogation of the clear language employed in the above orders in W.P.M.P.No. 742 of 1989 and in W.P.No. 5620 of 1987. These two aspects, if put together, amounts to deliberate violation of the orders of the court apart from exhibiting the naivety of perception by the respondent.

In similar circumstances, in Writ Petition No. 4227 of 2005, this court made a specific observation that the action of the respondents therein, which is similar to the present one, as bureaucratic inertia. This is yet another typical case of bureaucratic inertia coupled with utter disrespect exhibition towards the orders of this court and venturing to interpret the same in his own way and even without seeking any clarification from this court if at all such clarification is required to the detriment of the claim of the petitioner.

In fact, the claim of the petitioner was settled by this court by virtue of interim orders passed in W.P.M.P. No. 742 of 1989 and also final orders passed in W.P.No. 5620 of 1989 and there was no need for any further litigation. Unnecessarily, the petitioner was given trouble. The claim of the petitioner was settled in the writ petition and it has become final inasmuch as, no appeal had been preferred by the respondents against the said orders.

But after a long lapse of time, now the respondents are venturing to state something in the counter affidavit, for the first time, interpreting the order of the court.

This, in my considered view, is an act of utter disrespect towards the orders of this court and, in fact, the third respondent, in particular, is liable for contempt of court and separate proceedings would be issued in this regard. When the rights have been settled long back and they have become final by virtue of the orders passed in W.P.No. 5620 of 1989, there shall not be any interpretation misusing of the orders of this court by the third respondent. In the light of the order passed in W.P.No. 30391 of 1998 and in the circumstances, court is left with no other option but to issue a mandamus to give 20 MVA, as demanded by him, without making any further objections, particularly, in view of the fact that it was recorded in W.P.M.P No. 742 of 1989, which had ultimately become final in W.P.No. 5620 of 1989 and in similar such circumstances the other units were given the benefit.

The Writ Petition is accordingly allowed with exemplary costs of Rs. 10,000/- and the third respondent shall pay from his pocket to the petitioner.

D.S.R. VARMA, J

DATED: 11.04.2005

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That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Bilal Nazki, the Chief Justice on this Monday, The Eleventh Day of April Two Thousand and Five.

To

- 1 The Chief Managing Director, Transmission Corporation of A.P.Ltd (A.P.Transco),
Vidyut Soudha, Khairatabad, Hyderabad.
- 2 The Chairman and Managing Director, Central Power Distribution Company of A.P.Ltd (A.P.Transco), Singareni Bhavan, Red Hills, Hyderabad.
- 3 The Superintending Engineer, Operation Circle, Central Power Distribution Company of A.P.Limited (A.P.Transco), Kurnool, Kurnool District.
- 4 The Divisional Engineer, Operation Circle, Central Power Distribution Company of A.P.Ltd.,(A.P.Transco), Kurnool, Kurnool District.

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